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OGC HAS REVIEWED.

21 November 1955

MEMORANDUM FOR: Deputy Director (Support)

SUBJECT: Claims for Reimbursement - [REDACTED]

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REFERENCE: [REDACTED] Memorandum to the Deputy Director (Support), Same Subject, Dated 1 November 1955, and Attachments (DD/S 55-1067)

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1. In an earlier opinion, dated 9 May 1955, this Office considered a reimbursement claim made by [REDACTED] for the shipment of his effects from overseas to Washington, D. C.

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2. This Office recommended reimbursement for such shipment on the grounds that [REDACTED] had effected a permanent change of station. There is nothing in the facts presently submitted to cause a change in that determination. Under Agency regulations and in accordance with general Governmental practice, there is no authority for paying per diem to an employee or his dependents while they are at the employee's permanent duty station. (Standardized Government Travel Regulations, sec. 46)

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3. The travel provision of [REDACTED] contract provided, in pertinent part: "You will be advanced or reimbursed funds for necessary and reasonable expenses of travel to and from your permanent post of duty overseas for you and your dependents . . . In the course of such travel you will be entitled to per diem in lieu of subsistence. All monies paid under this paragraph will be subject to payment and accounting in substantial compliance with Government regulations."

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4. In our opinion of 9 May 1955 (General Counsel's Opinion 55-16), this Office commented: "The Agency is in no way precluded from providing, by regulation or by the terms of a contract, that a contract agent shall have greater or lesser rights to reimbursement for travel and transportation expenses than a staff employee, but when, as here, specific addenda or limitations are lacking, the general rights granted in the contract with respect to travel and transportation can be interpreted only by referral to Agency and Government regulations and practices relating to staff employees."

5. Had [REDACTED] been a staff employee at the time in question, and in the circumstances cited, no per diem would have been allowable

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That he was a contract agent in no way alters the fact (established by cable traffic, written travel orders, the transportation of his family, and the shipment of his effects) that a PCS was intended, ordered and performed.

6. There would have been advantage to [REDACTED] and the Agency in bringing him to Washington TDY for consultation concerning reassignment possibilities, while leaving his family and effects at his former post until his new permanent post was known. Typically, such consultation is combined with "home leave" travel, so that the family accompanies the employee to the United States. [REDACTED] had no entitlement to "home leave", so his family would have had to forego travel until his reassignment or separation, but there are disadvantages to all modes of proceeding, and one may not combine the benefits of several inconsistent modes. In any case, such TDY need not be combined with "home leave", but may be authorized separately, and it could have been authorized for [REDACTED], with per diem for his stay in Washington. Per diem for his family, however, could not have been authorized. (See General Counsel's Opinion 55-22)

7. Travel that could have been authorized may be approved. There is no legal objection if the Deputy Director (Support) should choose to approve payment of per diem to [REDACTED] for the period in question, in effect amending his travel orders to provide for a period of TDY in Washington. Under the facts of this particular case, such approval would not affect the reimbursement already made for the travel of dependents and shipment of effects, since these were "ratified" by [REDACTED] subsequent PCS assignment to [REDACTED]

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[REDACTED]
Office of General Counsel

Attachments

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Attachments